

SUPREME COURT COPY

Case No.
S209643

SUPREME COURT
FILED

MAR 27 2014

Frank A. McGuire Clerk

Deputy

SUPREME COURT OF CALIFORNIA

PEOPLE OF THE STATE OF)
CALIFORNIA, Plaintiff and)
Respondent,)
)
vs.)
)
MARK STEVENS,)
Defendant, Appellant, and Petitioner.)
_____)

Court of Appeal No.
B241356

Appeal from the Superior Court of California,
County of San Luis Obispo
Honorable Barry T. LaBarbara, Judge
(San Luis Obispo County No. F471357)

PETITIONER'S OBJECTIONS TO RESPONDENT'S REQUEST FOR JUDICIAL NOTICE

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State Bar No. 120030

Attorney for Defendant, Appellant, and
Petitioner Mark Stevens

Defendant, Appellant, and Petitioner Mark Stevens (“petitioner”) submit the following objections to the Request for Judicial Notice (“Request”) filed by respondent in this case:

I. GENERAL OBJECTIONS.

Petitioner objects to the Request, in its entirety, on the ground that the Mentally Disordered Offenders (MDO) Act, to which the Request purports to pertain, is not ambiguous or susceptible of multiple interpretations, and that resort to legislative history or other extrinsic aids is, therefore, inappropriate. (*Lopez v. Superior Court* (2010) 50 Cal.4th 1055, 1063; *People v. Hudson* (2006) 38 Cal.4th 1002, 1009; *Shirk v. Vista Unified School Dist.* (2007) 42 Cal.4th 201, 211; *see also* Petitioner’s Reply Brief (“PRB”, pp. 11-12.)

II. OBJECTIONS TO INDIVIDUAL REQUESTS.

In addition to the General Objections stated above, and without waiving such objections, petitioner objects to the below specified individual requests on the following grounds:

- A. Other than disputing respondent’s interpretation of the subject documents (*see* PRB, p. 14 n.10), petitioner does not object to the following requests: 5-8, 17-18, 20, and 22.
- B. Petitioner objects to request nos. 1-4, 9-14, and 16 on the ground that they purport to seek judicial notice of entities other than the Legislature itself,

including without limitation outside agency, judges, or private citizens or entities. As such, they do not constitute “[o]fficial acts of the legislative, executive, and judicial departments of the United States and of any state of the United States” and, therefore, are not judicially noticeable under Evidence Code section 452, subdivision (c). (*See, e.g., Cortez v. Purolator Air Filtration Products Co.* (2000) 23 Cal.4th 163, 168 n.2; *Quintano v. Mercury Cas. Co.* (1955) 11 Cal.4th 1049, 1062 n.5.)

- C. Petitioner objects to request nos. 14-15, 19, and 21 on grounds that they constitute statements by individual legislators, which may not be considered as part of a statute’s legislative history, absent some indication that those statements were considered by the Legislature as a whole. (*See, e.g., People v. Garcia* (2002) 28 Cal.4th 1166, 1175-76 n.5; *People v. Otto* (2001) 26 Cal.4th 200, 208-09; *County of Colusa v. California Wildlife Conservation Bd.* (2006) 145 Cal.App.4th 637, 653 n.11; *see also* PRB, p. 18 n.13.)
- D. To the extent not reflected above, petitioner incorporates all objections and arguments contained in Petitioner’s Reply Brief.

DATED: March 25, 2014

GERALD J. MILLER
Attorney at Law

Attorney for Defendant, Appellant, and
Petitioner Mark Stevens

PROOF OF SERVICE

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years of age, and am not a party to the within action; my business address is P.O. Box 432, Agoura Hills, CA 91376-0432. On the date hereinbelow specified, I served the foregoing document, described as set forth below on the interested parties in this action by placing true copies thereof enclosed in sealed envelopes, at Agoura Hills, California, addressed as follows:

DATE OF SERVICE: March 25, 2014

DOCUMENT SERVED: **PETITIONER’S OBJECTIONS TO RESPONDENT’S
REQUEST FOR JUDICIAL NOTICE**

PERSONS SERVED:
Office of the Attorney California Appellate Project
General 520 S. Grand Ave., Fourth
300 S. Spring St. Floor
Los Angeles, CA 90013 Los Angeles, CA 90071
ATTN: Scott A. Taryle, ATTN: Richard Lennon,
Esq. Esq.

I caused such envelope(s) with postage thereon fully prepaid to be placed in the United States mail at Agoura Hills, California. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on March 25, 2014 at Agoura Hills, California.

GERALD J. MILLER